

ESTTA Tracking number: **ESTTA190060**

Filing date: **01/31/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048480
Party	Plaintiff Sinbad Grand Cafe, LLC
Correspondence Address	Natu J. Patel The Patel Law Firm, P.C. 2532 Dupont Drive Irvine, CA 92612 UNITED STATES NPatel@thePatelLawFirm.com
Submission	Motion for Sanctions
Filer's Name	Natu J. Patel, Attorney of Record
Filer's e-mail	NPatel@thePatelLawFirm.com
Signature	/natupatel/
Date	01/31/2008
Attachments	MotionForSanctions.pdf ( 4 pages )(216869 bytes ) NPatelDecl.pdf ( 17 pages )(630279 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the matter of Registration No. 2782619  
Granted Registration on November 11, 2003*

SINBAD GRAND CAFÉ, LLC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>PETITIONER'S MOTION FOR</b>
	)	<b>SANCTIONS REQUESTING DEFAULT</b>
	)	<b>JUDGMENT PURSUANT TO</b>
	)	<b>37 C.F.R. § 2.120</b>
	)	
	)	<b>Proceeding No. 92048480</b>
AL-FAKHER FOR TABACCO TRADING &	)	
AGENCIES CO. LTD. CORPORATION,	)	Petition Filed: November 21, 2007
	)	
Respondent.	)	
	)	
	)	
	)	

Petitioner, Sinbad Grand Cafe, LLC., hereby moves for sanctions against Respondent, Al-Fakher for Tobacco Trading & Agencies Co. Ltd. Corporation for failure to respond or otherwise comply with Petitioner's requests to participate in a discovery conference pursuant to 37 C.F.R. § 2.120. Therefore, sanctions should be assessed against Respondent pursuant to 37 C.F.R. § 2.120(g)(1) and Fed. R. Civ. P. 37(b)(2).

On November 21, 2007, Petitioner filed the instant cancellation action against Respondent with the Trademark Trial and Appeal Board ("Board"), on the basis that the mark is merely descriptive, the registration was fraudulently procured, the mark was abandoned and/or the mark was assigned without goodwill.

Subsequently, on November 21, 2007, the Board issued a Scheduling Order providing that the parties must hold a discovery conference on or before January 30, 2008. According to the Board's procedures and regulations, the discovery conference

shall occur no later than the opening of the discovery period, and the parties must discuss the subjects set forth in Federal Rule of Civil Procedure 26(f) and any subjects set forth in the Board's institution order. 37 C.F.R. § 2.120 (a)(2). (*emphasis added*). Additionally, 37 C.F.R. § 2.120 (g)(1) provides that if a party fails to participate in the required discovery conference, or if a party fails to comply with an order of the Trademark Trial and Appeal Board relating to disclosure or discovery, including a protective order, the Board may make any appropriate order, including those provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except that the Board will not hold any person in contempt or award expenses to any party.

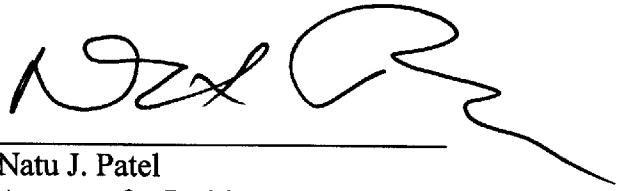
Respondent has failed to follow the Board's order. On January 21, 2008, Petitioner requested the Respondent to participate in a discovery conference. See Exhibit A of Natu J. Patel Declaration ("Patel Decl."). After receiving no response to the January 21, 2008 letter, Petitioner sent a second request to the Respondent to participate in a discovery conference. See Exhibit B of Patel Decl. As of today, no response has been received from Respondent regarding the discovery conference.

It is interesting to note that the Respondent consistently ignores the deadlines imposed by the Board. For example, Respondent failed to timely file an answer to the Petition for Cancellation that was due on December 31, 2007. On January 9, 2008, Petitioner notified Respondent of its failure to adhere to the deadline. See Exhibit C of Patel Decl. On or about January 9, 2008 when Respondent finally answered the Petition for Cancellation, Respondent failed to provide any explanation for the delay as required by TBMP § 312 and the authorities cited therein.

Based on the foregoing, Petitioner respectfully requests that the Board impose sanctions by entering a default judgment against Respondent for failure to participate in a discovery conference, pursuant to 37 C.F.R. § 2.120(g), Fed. R. Civ. P. 37(b)(2)(vi) and Fed. R. Civ. P. 55. Additionally, a default judgment is warranted by Respondent's failure to show good cause for why default judgment should not be entered for failure to file a late answer pursuant to TBMP § 312, 37 C.F.R. § 2.114(a) and Fed. R. Civ. P. 55. Therefore, Petitioner respectfully requests the Board to enter the default judgment and cancel the Registration No. 2,782,619.

Dated: January 31, 2008

Respectfully Submitted,

By:   
Nattu J. Patel  
Attorney for Petitioner  
Sinbad Grand Cafe, LLC

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
Facsimile: (949) 955-1877  
npatel@thePatelLawFirm.com

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing PETITIONER'S MOTION FOR SANCTIONS REQUESTING DEFAULT JUDGMENT PURSUANT TO 37 C.F.R. § 2.120 was served by First-Class mail and electronic mail, upon attorneys for Respondent, this 31st day of January, 2008 as follows:

Lawrence E. Abelman, Esq.  
Victor M. Tannenbaum, Esq.  
Abelman Frayne & Schwab  
666 Third Avenue  
New York, NY 10017  
leabelman@lawabel.com  
vmtannenbaum@lawabel.com

F. Freddy Sayegh, Esq.  
Sayegh & Associates, PLC  
5895 Washington Boulevard  
Culver City, CA 90232  
fsayegh@spattorney.com


*In the matter of Registration No. 2782619  
Granted Registration on November 11, 2003*

Petition Filed: November 21, 2007

**DECLARATION OF NATU J. PATEL IN SUPPORT OF PETITIONER'S MOTION FOR SANCTIONS  
REQUESTING DEFAULT JUDGMENT PURSUANT TO 37 C.F.R. § 2.120**

Executed this 31st day of January 2008 at Irvine, California.

Dated: January 31, 2008

By:   
Natu J. Patel  
Attorney for Petitioner  
Sinbad Grand Cafe, LLC

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
Facsimile: (949) 955-1877  
npatel@thePatelLawFirm.com

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing DECLARATION OF NATU J. PATEL IN SUPPORT OF PETITIONER'S MOTION FOR SANCTIONS REQUESTING DEFAULT JUDGMENT PURSUANT TO 37 C.F.R. § 2.120 was served by First-Class mail and electronic mail, upon attorneys for Respondent, this 31st day of January, 2008 as follows:

Lawrence E. Abelman, Esq.  
Victor M. Tannenbaum, Esq.  
Abelman Frayne & Schwab  
666 Third Avenue  
New York, NY 10017  
leabelman@lawabel.com  
vmtannenbaum@lawabel.com

F. Freddy Sayegh, Esq.  
Sayegh & Associates, PLC  
5895 Washington Boulevard  
Culver City, CA 90232  
fsayegh@spattorney.com

# **EXHIBIT A**

# **The Patel Law Firm**

A Professional Corporation

2532 Dupont Drive, Irvine, California 92612

Tel: (949) 955-1077 - Fax: (949) 955-1877

NPatel@thePatelLawFirm.com

January 21, 2008

**Via Facsimile Only**

**(212) 949-9190**

Lawrence E. Abelman, Esq.  
Victor M. Tannenbaum, Esq.  
ABELMAN FRAYNE & SCHWAB  
666 Third Avenue  
New York, NY 10017

**Re: Sinbad Grand Café, LLC v.  
Al-Fakher for Tobacco Trading & Agencies Co. Ltd.**

Dear Mssrs. Abelman and Tannenbaum:

According to the TTAB rules, the discovery conference ("Conference") needs to be completed on or before January 30, 2008. I am available for the Conference any time Friday, January 25, 2008 morning (California time) or Monday, January 28, 2008 morning (California time). Please advise us your availability.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,  
The Patel Law Firm, P.C.

  
Nattu J. Patel

cc: Freddy Sayegh, Esq. Fax No. (310) 895-1180

NJP/jjc

# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** Lawrence E. Abelman, Esq.

**From:** Natu J. Patel

ABELMAN, FRAYNE & SCHWAB

**Fax:** (212) 949 - 9190

**Pages:** 2 (including Cover Page)

**Phone:**

**Date:** January 21, 2008

**Re:** Al-Fakher for Tobacco Trading &  
Agencies Co. Ltd.

**CC:**

☐ **Urgent**    ☒ **For Review**    ☐ **Please Comment**    ☒ **Please Reply**    ☐ **Please Recycle**

• **Comments:**

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# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** F. Freddy Sayegh, Esq.

**From:** Natu J. Patel

SAYEGH & ASSOCIATES, PLC

THE PATEL LAW FIRM, P.C.

**Fax:** (310) 895-1180

**Pages:** 2 (including Cover Page)

**Phone:**

**Date:** January 22, 2008

**Re:** Sierra Network, Inc. v.  
Tobacco Import USA et al.

**CC:**

☐ **Urgent**

☒ **For Review**

☐ **Please Comment**

☒ **Please Reply**

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● **Comments:**

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Jan-22-2008 12:16PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
614	1/22/2008	12:15:39PM	Send	13108951180	0:53	2	OK

**The Patel Law Firm**  
A Professional Corporation

2538 Dupont Drive  
Irvine, California 92614-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1077

**FACSIMILE COVER SHEET**

To: F. Freddy Sayegh, Esq.	From: Nabe J. Patel
SAYEGH & ASSOCIATES, PLC	THE PATEL LAW FIRM, P.C.
Fax: (310) 895-1180	Pages: 2 (including Cover Page)
Phone:	Date: January 22, 2008
Re: Sierra Network, Inc. v. Tobacco Import USA et al.	CD:
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Requote	

• Comments

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# **EXHIBIT B**

# **The Patel Law Firm**

A Professional Corporation

2532 Dupont Drive, Irvine, California 92612  
Tel: (949) 955-1077 - Fax: (949) 955-1877  
NPatel@thePatelLawFirm.com

January 28, 2008

**Via Facsimile Only**  
**(212) 949-9190**

Lawrence E. Abelman, Esq.  
Victor M. Tannenbaum, Esq.  
ABELMAN FRAYNE & SCHWAB  
666 Third Avenue  
New York, NY 10017

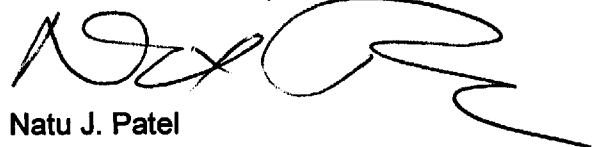
**Re: Sinbad Grand Café, LLC v.  
Al-Fakher for Tobacco Trading & Agencies Co. Ltd.**

Dear Messrs. Abelman and Tannenbaum:

As of today, we have not received a response to our letter dated January 21, 2008 regarding scheduling a discovery conference ("Conference") date and time. In view of the January 30, 2008 deadline for the completion of the Conference, please advise us your availability at your earliest convenience.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,  
The Patel Law Firm, P.C.



Nattu J. Patel

cc: Freddy Sayegh, Esq. Fax No. (310) 895-1180

NJP/jjc

# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** Lawrence E. Abelman, Esq.  
ABELMAN, FRAYNE & SCHWAB

**From:** Natu J. Patel

**Fax:** (212) 949 - 9190

**Pages:** 2 (including Cover Page)

**Phone:**

**Date:** January 28, 2008

**Re:** Al-Fakher for Tobacco Trading &  
Agencies Co. Ltd.

**CC:** Freddy Sayegh, Esq.  
SAYEGH & ASSOCIATES, PLC  
Fax No. (310) 895 - 1180

☒ **Urgent**

☒ **For Review**

☐ **Please Comment**

☒ **Please Reply**

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THE PATEL LAW FIRM, P.C.  
19499551877  
Jan-28-2008 1:33PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
638	1/28/2008	1:32:34PM	Send	12129499190	0:44	2	OK

**The Patel Law Firm**  
A Professional Corporation

9330 Dupont Drive  
Irvine, California 92618-1584  
Tel: (949) 953-1077  
Fax: (949) 953-1077

**FACSIMILE COVER SHEET**

To: Lawrence E. Abelman, Esq. ABELMAN, FRAYNE & SCHWAB	From: Nishi J. Patel
Fax: (212) 940 - 9180	Pages: 2 (including Cover Page)
Phone:	Date: January 28, 2008
Re: Al-Fakhri for Tobacco Trading & Agencies Co. Ltd.	CC: Freddy Sayegh, Esq. SAYEGH & ASSOCIATES, PLC Fax No. (310) 895 - 1180
<input checked="" type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

• Comments

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Jan-28-2008 1:34PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
639	1/28/2008	1:34:00PM	Send	13108951180	0:51	2	OK

**The Patel Law Firm**  
A Professional Corporation

3636 Dupont Drive  
Irvine, California 92612-1224  
Tel: (949) 955-1077  
Fax: (949) 955-1877

**FACSIMILE COVER SHEET**

To: Lawrence E. Abelman, Esq. ABELMAN, FRAYNE & SCHWAB	From: Nishi J. Patel
Fax: (212) 946 - 9190	Pages: 2 (Including Cover Page)
Phone:	Date: January 28, 2008
Re: Al-Fakhri for Tobacco Trading & Agencies Co. Ltd.	CC: Freddy Sayegh, Esq. SAYEGH & ASSOCIATES, PLC Fax No. (310) 868 - 1180
<input checked="" type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

• Comment:

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# **EXHIBIT C**

# **The Patel Law Firm**

A Professional Corporation

2532 Dupont Drive, Irvine, California 92612

Tel: (949) 955-1077 - Fax: (949) 955-1877

NPatel@thePatelLawFirm.com

January 9, 2008

**Via Facsimile Only**  
**(212) 949-9190**

Julie B. Seyler, Esq.  
ABELMAN FRAYNE & SCHWAB  
666 Third Avenue  
New York, NY 10017

**Re: Sinbad Grand Café, LLC v.  
Al-Fakher for Tobacco Trading & Agencies Co. Ltd.  
Petition for Cancellation: Cancellation No. 92048480 ("Petition")**

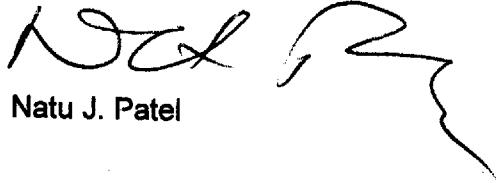
Dear Ms. Seyler:

Thank you for your telephone call a couple of days ago regarding the above referenced Petition.

As you are aware, your client's answer was due on December 31, 2007. As of today, I have not received any responsive pleadings or your answer ("Answer") on this Petition. Please note that if your client fails to file and serve the Answer on or before the end of the business day on January 11, 2008, I plan to file a Motion for Default Judgment with the Trademark Trial and Appeal Board.

Should you have any questions, please do not hesitate to contact me directly.

Very truly yours,  
The Patel Law Firm, P.C.



Nattu J. Patel

NJP/fjc

# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** Julie B. Seyler, Esq.

**From:** Natu J. Patel

ABELMAN, FRAYNE & SCHWAB

**Fax:** (212) 949 - 9190

**Pages:** 2 (including Cover Page)

**Phone:**

**Date:** January 9, 2008

**Re:** Sinbad Grand Café v. Al-Fakher for  
Tabacco Trading & Agencies Co. Ltd. **CC:**  
Petition for Cancellation

☐ **Urgent**    ☒ **For Review**    ☐ **Please Comment**    ☐ **Please Reply**    ☐ **Please Recycle**

• **Comments:**

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Jan-9-2008 4:58PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
580	1/ 9/2008	4:57:25PM	Send	12129499190	0:40	2	OK

**The Patel Law Firm**  
A Professional Corporation

2222 Dupont Drive  
Irvine, California 92618-1364  
Tel: (949) 955-1077  
Fax: (949) 955-1077

**FACSIMILE COVER SHEET**

To:	Julie B. Saylor, Esq.	From:	Nishi J. Patel
ABELMAN, FRAYNE & SCHWAB			
Fax:	(212) 948 - 9180	Pages:	2 (including Cover Page)
Phone:		Date:	January 9, 2008
Re:	Shibud Grand Café v. Al-Fakhri for Tobacco Trading & Agencies Co. Ltd. CC: Petition for Cancellation		
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Reply			

• Comments

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